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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/051,286	01/22/2002	Mary F. Parker	TAMC00-25 01	4762

27370 7590 03/23/2005

OFFICE OF THE STAFF JUDGE ADVOCATE  
 U.S. ARMY MEDICAL RESEARCH AND MATERIEL COMMAND  
 ATTN: MCMR-JA (MS. ELIZABETH ARWINE)  
 504 SCOTT STREET  
 FORT DETRICK, MD 21702-5012

EXAMINER

ROY, BAISAKHI

ART UNIT PAPER NUMBER

3737

DATE MAILED: 03/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/051,286

Applicant(s)

PARKER ET AL.

Examiner

Baisakhi Roy

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 9/24/03, 2/14/03.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claim 2 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

If applicant is employing means plus function language in a claim, applicant must explicitly state with reference to the terms and phrases of the claim element, what structure, materials, or acts perform the function recited in the claim element. In this case, applicant needs to show what is meant by the means plus function language by providing adequate explanation in the disclosure for the specific structural component of the input processor 210, classifier 250, and image processor 270 as the means for carrying out the normalization, extraction, compression, classification, and image processing procedure. See MPEP 2181.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 2 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Applicant must set forth an adequate disclosure showing what is meant by the means plus function language by providing adequate explanation in the disclosure for the specific structural component of the input processor 210, classifier 250, and image processor 270 as the means for carrying out the normalization, extraction, compression, classification, and image processing procedure. If an applicant fails to set forth an adequate disclosure, the applicant has in effect failed to particularly point out and distinctly claim the invention as required by the second paragraph of section 112. See MPEP 2181.

### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

6. Claims 1-4 are rejected under 35 U.S.C. 102(e) as being anticipated by Bambot et al. (2003/0135122). Bambot et al. disclose a method and apparatus including a computer program for generating a two dimensional histological map of a cervix from a 3-dimensional hyperspectral data cube by scanning the cervix (fig. 60A/B, [0178], claim 57). Bambot et al. teach executing said method with an input processor (fig. 1 # 44) constructed to normalize the fluorescence spectral signals ([0130] [0131] [0142] [0151], extract pixel data, compress, assign tissue classification to the pixel data, and generate a two dimensional image of the cervix from the compressed data which includes color-coded regions representing specific tissue classifications of the cervix ([0115] [0151] [0154-0157] [0168-0171] [0175-0177], figs. 13-56).

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yang et al. in view of Bambot et al. Yang et al. disclose an apparatus and computer-based method for generating a two dimensional histological map of a biological specimen from a 3-dimensional hyperspectral data cube (abstract, col. 1 lines 52-60, col. 15 lines 42-56). Yang et al. further teach executing said procedure by normalizing fluorescence

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spectral signals, extracting pixel data from the spectral signals, compressing the extracted pixel data, and classifying tissue into color-coded regions (col. 2 lines 14- 67, col. 3 lines 1-62, col. 9 lines 12-47, col. 10 lines 49-67, col. 11 lines 39-58, col. 13 lines 36-53). Yang et al. however do not explicitly teach applying said method to cervical tissue. In the same field of endeavor, Bambot et al. disclose a method an apparatus including a computer program for generating a two dimensional histological map of a cervix which includes color-coded regions representing specific tissue classifications of the cervix from a 3-dimensional hyperspectral data cube by scanning the cervix, as set forth above (fig. 60A/B, ([0115] [0151] [0154-0157] [0168-0171] [0175-0178], figs. 13-56, claim 57). It would have therefore been obvious to one of ordinary skill in the art to use the cervical tissue based teaching by Bambot et al. to modify the teaching by Yang et al. for the purpose of generating a two-dimensional histological map of a cervix from a 3-dimensional hyperspectral data cube.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Baisakhi Roy whose telephone number is 571-272-7139. The examiner can normally be reached on M-F (7:30 a.m. - 4p.m.).


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian L. Casler can be reached on 571-272-4956. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

B.R.

BR

  
BRIAN L. CASLER  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700